

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference B81754PCT	FOR FURTHER ACTION		See item 4 below
International application No. PCT/EP2004/003328	International filing date (day/month/year) 29 March 2004 (29.03.2004)	Priority date (day/month/year) 29 March 2003 (29.03.2003)	
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237			
Applicant C.R. BARD, INC.			

1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).

2. This REPORT consists of a total of 6 sheets, including this cover sheet.

In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.

3. This report contains indications relating to the following items:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Box No. I | Basis of the report |
| <input checked="" type="checkbox"/> Box No. II | Priority |
| <input type="checkbox"/> Box No. III | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability |
| <input type="checkbox"/> Box No. IV | Lack of unity of invention |
| <input checked="" type="checkbox"/> Box No. V | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input type="checkbox"/> Box No. VI | Certain documents cited |
| <input type="checkbox"/> Box No. VII | Certain defects in the international application |
| <input type="checkbox"/> Box No. VIII | Certain observations on the international application |

4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).

Date of issuance of this report
22 February 2006 (22.02.2006)

Authorized officer

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PATENT COOPERATION TREATY

Translation

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bix.1)

Applicant's or agent's file reference

B81754PCT

Date of mailing
(day/month/year)

FOR FURTHER ACTION

See paragraph 2 below

International application No.

PCT/EP2004/003328

International filing date (day/month/year)

29.03.2004

Priority date (day/month/year)

29.03.2003

International Patent Classification (IPC) or both national classification and IPC

Applicant

C.R. BARD, INC.

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bix.1(s)(i) with regard to novelty, inventive step or industrial applicability, citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1b(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/EP

Authorized officer

Facsimile No.

Telephone No.

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/003328

Box No. I Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
☐ This opinion has been established on the basis of a translation from the original language into the following language _____, which is the language of a translation furnished for the purposes of international search (under Rule 12.3 and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material
☐ a sequence listing
☐ table(s) related to the sequence listing
 - b. format of material
☐ in written format
☐ in computer readable form
 - c. time of filing/furnishing
☐ contained in the international application as filed.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/003328

Box No. II

Priority

1. ☒ The following document has not yet been furnished:

☒ copy of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(a)).

☐ translation of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date in the claimed priority date.

2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.

3. Additional observations, if necessary:

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/003328

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims 1-7	YES
	Claims	NO
Inventive step (IS)	Claims 1-7	YES
	Claims	NO
Industrial applicability (IA)	Claims 1-7	YES
	Claims	NO

2. Citations and explanations:

1. Reference is made to the following international search report citation (D):

D1: US-A-5 971 939 (COOPER ROBERT F ET AL) 26 October 1999 (26-10-1999)

2. PCT Article 33

2.1. Document D1 (cf. column 9, paragraph 2; figures 1-3), which is considered the closest prior art, discloses a pressure generating unit according to the preamble of claim 1 wherein the ventilation of the cylinder chamber occurs via a slit (36) at the proximal end position of the plunger. The subject matter of claim 1 (see point below) thus differs from the known pressure generating unit in that a connecting line is provided that links the evacuated cylinder chamber with the cylinder chamber that is under atmospheric pressure on the rear side of the plunger, and in that a nonwoven fabric is arranged on the plunger spindle. The subject matter of the claim is therefore novel (PCT Article 33(2)).

The problem to be solved by the present invention can thus be seen as that of preventing the discharge of tissue fluid during ventilation.

Providing ventilation via the cylinder chamber on the rear side of the plunger in conjunction with a nonwoven fabric arranged on the plunger spindle is neither known from nor suggested by the available prior art (PCT Article 33(3)).

2.2. Claims 2-7 are dependent upon claim 1 and thus likewise satisfy the PCT requirements with respect to novelty and inventive step.

Observations

1. PCT Article 6

1.1. The German term "Fliess" used in the application was interpreted to be synonymous with the word "Vlies" [nonwoven fabric].

1.2. It is not clear from claim 1 whether or not the plunger, the plunger spindle and the cylinder chamber are parts of the pressure generating unit. Moreover, switching to air supply should have been correlated with an open position of the plunger, and the term "plunger" in line 10 should have been replaced with "rear side of the plunger". Finally, the function of the nonwoven fabric (see page 2, lines 115-117) should be incorporated as an essential feature.

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/003328

Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

- 1.3. Since claim 2 refers to several features of claim 1, claim 2 is considered to be dependent upon claim 1. This should have been clarified by means of a corresponding back-reference. However, there is no basis in either of the claims for the terms "drive side" and "gearwheel inner side".
- 1.4. Due to its reference to "the lock washer", claim 7 should be related only to claim 6.
2. Contrary to PCT Rule 5.1(a)(ii), the description does not cite document D1 or indicate the relevant prior art disclosed therein (cf. Box V, point 2).
3. Pursuant to PCT Rule 11.13(m), the same feature must be denoted by the same reference sign throughout the application. This requirement has not been met in the case of reference sign '10' on page 4, line 181.